

DOCKET NO: NNH-CV17-6072389-S	:	SUPERIOR COURT
	:	
ELIYAHU MIRLIS	:	J.D. OF NEW HAVEN
	:	
V.	:	AT NEW HAVEN
	:	
YESHIVA OF NEW HAVEN, INC. FKA	:	
THE GAN, INC. FKA THE GAN	:	
SCHOOL, TIKVAH HIGH SCHOOL AND	:	
YESHIVA OF NEW HAVEN, INC.	:	JANUARY 24, 2021

MEMORANDUM OF DECISION
DEFENDANT'S MOTION TO OPEN JUDGMENT AND EXTEND THE LAW DAY
ENTRY NO.: 153.00

Earlier today the court heard extensive argument on the defendant, YESHIVA OF NEW HAVEN, INC.'s ("YESHIVA") motion to open judgment and extend the law day. YESHIVA'S argument, in a nutshell, is that equity requires that the judgment be opened, and the defendant be allowed to produce cash on hand, and sell assets to pay into court a cash bond. YESHIVA is asking to extend the law day, approximately six months in order to accomplish this. Within that six months YESHIVA would substitute the cash bond to discharge the lien pursuant to Connecticut General Statutes §52-380e in accordance with Judge Baio's order dated February 24, 2020 (Entry No.: 133.00). It is YESHIVA'S burden to prove to the court that equity requires an opening of the judgment and extension of the law day. YESHIVA has not met its burden of proof. As such, the motion is denied and the plaintiff's objection thereto is sustained.

As this is a claim in equity, the court took into consideration all relevant facts presented by counsel for the defendant and plaintiff in making its decision. In

Judicial District of New Haven
SUPERIOR COURT
FILED

JAN 24 2022 159

CHIEF CLERK'S OFFICE

making this decision the court takes into account the entire record as well as the facts enumerated herein.

1. YESHIVA currently does not have enough funds to produce the cash bond.
2. YESHIVA currently has cash on hand to put up 20% of the cash needed for the bond. Counsel for YESHIVA, was unable to give the court an exact figure of how much cash would be produced and speculated that it would be about 20%.
3. YESHIVA is requesting a new law day, 6 months from now in order for the affiliated nonprofits to sell assets in order to pay the cash bond.

Attorney Colbert testified that the affiliated nonprofits were commercial and residential rental properties that had an estimated value of \$10,000,000.00. He was unaware of the current value of the school house which is the subject of this action. He did not present evidence as to which buildings would be sold in order to produce the funds to pay for the cash bond
4. YESHIVA's counsel did not present potential buyers for the assets mentioned above or a plan on how the bond would be paid for.
5. YESHIVA's counsel did not know how many students attended the school and could not speculate as to the number of active students. YESHIVA did state that all the students were adults and there were no minor students at the school.

6. YESHIVA's counsel could not provide the current market value of the school and relied upon the appraised value of the subject property which was \$620,000.00 pursuant to Judge Baio's decision of February 24, 2020.
7. YESHIVA has had months to come up with a plan to pay the full cash bond. As of today's argument, no plan has been presented to the court. In the alternative, YESHIVA, is asking the court and the plaintiff to take it on faith, that they will do what is necessary to come up with the cash to pay the bond in a timely manner.
8. This case has been pending since July of 2017. There have been numerous delays due to the an appeal and standard motion practice.
9. The plaintiff, Mirlis Eliyahu, ("ELIYAHU") has been waiting through these delays and is anxiously awaiting a final resolution of this matter.

The court would need more than the representations made by YESHIVA's counsel to find that equity requires an opening of the judgment and extending of the law day. If the court were to grant YESHIVA's motion, there are no assurances provided to ELIYAHU when and how the cash bond would come into being, or any assurances that the debt owed would be paid. As such, the motion to open the judgment and extend the law day is denied, and the objection thereto is granted.

Nevertheless, the court must extend the law day to February 22, 2022.

BY THE COURT

(442318)

Hon. John A. Cirello